

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TERRANCE JON IRBY,

Plaintiff,

v.

DOC WASHINGTON, BERNIE WARNER, DAN
PACHOLKE, STEVE SINCLAIR, RON
KNIGHT, JUAN PALOMO, CC3 DAVID
MCKINNEY, CHRIS BOWMAN, SCOTT
FRAKES and JERRY T. DUNLEAVY,

Defendants.

No. 4:14-CV-05054-EFS

**ORDER DENYING APPLICATION TO
PROCEED IN FORMA PAUPERIS,
DISMISSING ACTION AND DENYING
PENDING MOTIONS**

By Order filed May 22, 2014, ECF No. 14, the Court directed Mr. Terrance Jon Irby to show cause why he should not be denied leave to proceed *in forma pauperis* in this action pursuant to 28 U.S.C. § 1915(g). Since that time, Mr. Irby has filed a second Motion for Temporary Restraining Order, ECF No. 18, plus an Affidavit Offer of Proof and Supplemental Briefing, ECF Nos. 19 & 22, as well as a Motion to Modify the Order to Show Cause, ECF No. 24, plus another "Offer of Proof Affidavit," ECF No. 25. In addition, Plaintiff has submitted two late-filed Answers to Show Cause, ECF Nos. 23 and 26. Plaintiff is currently

ORDER DENYING APPLICATION TO PROCEED IN FORMA PAUPERIS, DISMISSING
ACTION AND DENYING PENDING MOTIONS -- 1

1 incarcerated at the Washington State Corrections Center in Shelton,
2 Washington.

3 After review of Plaintiff's various submissions, the Court finds
4 that he has failed to present any facts demonstrating that he was under
5 "imminent danger of serious physical injury" when he signed his
6 complaint on April 21, 2014, as required in order to permit Plaintiff
7 to proceed *in forma pauperis*. 28 U.S.C. § 1915(g). See *Andrews v.*
8 *Cervantes*, 493 F.3d 1047, 1053 (9th Cir. 2007). Plaintiff's complaint
9 involved property and access to the courts issues. His subsequent
10 assertions that he was not provided with seizure medicine when he was
11 transferred on May 15, 2014, and that he presently has suicidal thoughts
12 based on his current life's circumstances which he intends to discuss
13 with a doctor, are insufficient to show he was under "imminent danger
14 of serious physical injury" on April 21, 2014.

15 Plaintiff does not contest the Court's finding that three or more
16 of the civil actions or appeals that he has pursued while incarcerated
17 were dismissed as frivolous or for failure to state a claim. ECF No.
18 14. Plaintiff has not paid the \$400.00 fee to commence this action.

19 Therefore, **IT IS ORDERED** that Plaintiff application to proceed *in*
20 *forma pauperis* is **DENIED** and this action is **DISMISSED without prejudice**
21 for failure to comply with the filing fee requirements of 28 U.S.C. §§
22 1914 and 1915. **IT IS FURTHER ORDERED** all pending Motions are **DENIED as**
23 **moot.**

24 **IT IS SO ORDERED.** The District Court Executive is directed to
25 enter this Order, enter judgment, forward copies to Plaintiff at his
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1 last known address, and close the file. The Court certifies any appeal
2 of this dismissal would not be taken in good faith.

3 **DATED** this 1st day of June 2014.

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5 s/Edward F. Shea
6 EDWARD F. SHEA
7 Senior United States District Judge
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